

SUMMARIES OF MAJOR CASES

Judicial discipline cases decided by the Arizona Supreme Court provide guidelines for interpreting the Code of Judicial Conduct. The summaries contained in this section include legal citations showing where to find the full text of the court's opinions. Summaries of unpublished orders, the originals of which are kept on file by the clerk of the court, include case numbers and filing dates, but no legal citations. Opinions are listed chronologically.

The commission recommended that a justice of the peace be removed from office for failing to properly dispose of several hundred traffic cases over a six-year period and for engaging in an angry confrontation with an attorney seeking to have his case heard. After the commission filed its recommendations with the supreme court and before the court could rule on the case, the judge resigned and entered into a stipulated agreement that enjoined him from seeking election or appointment as a judge in Arizona. ***In re Avalos***, JUD-2 (June 26, 1980).

A justice of the peace abused his position when he sentenced defendants in a case in which he was the complaining party; ordered the arrest of a court reporter and had her transported to the court where he ordered her to function as the court reporter in a criminal proceeding; issued an "investigative subpoena" for a friend to appear in court without making an official record or allowing the prosecutor, bailiff or court clerk to be present; set bail in a case, without conducting or offering a hearing, based upon the judge's personal acquaintance with the defendants; and used a red light in his personal vehicle to stop a car involved in an accident, effectuated the arrest of the driver, and subsequently conducted the defendant's preliminary hearing. The judge resigned just before the commission filed its recommendations with the supreme court. ***In re Soto***, JUD-3 (September 26, 1980).

A justice of the peace was publicly censured for summarily dismissing the traffic citations of constituents and for filing civil actions on his own behalf in his court. The supreme court found that the judge's practice of favoring constituents over others was improper. The court also concluded that a justice of the peace with outside business interests had to make a choice either to leave the bench, in which case he would have the same advantage as other residents in the community, or divest himself of his business interests, thereby insuring the independence and integrity of the judiciary. ***In re Haddad***, 128 Ariz. 490, 627 P.2d 221 (1981).

A justice of the peace was censured by the supreme court for delaying decisions in several cases past the sixty-day statutory period. The judge signed salary affi-

davits stating that he had no matters under advisement in excess of the sixty-day period. The court held that the unnecessary and unwarranted delay in the rendering of decisions violated the state constitution which provides for the removal or censure of a judge for wilful and persistent failure to perform judicial duties. Although the judge resigned before the decision was entered, the court still exercised jurisdiction by reasoning that the potential existed for the judge to run for office again. ***In re Weeks***, 134 Ariz. 521, 658 P.2d 174 (1983).

A justice of the peace was publicly censured for giving a false report to the commission and for questioning a potential commission witness about his proposed testimony. ***In re Scott***, JUD-7 (November 6, 1984).

The supreme court censured a superior court judge for entering *ex parte* orders favoring her court clerk in a matter assigned to another judge. The judge also made inappropriate remarks during the sentencing of a criminal defendant and then allowed her court reporter to delete the remarks from the record on appeal. ***In re Hendrix***, 145 Ariz. 345, 701 P.2d 841 (1985).

The supreme court censured a justice of the peace for conduct that occurred prior to his holding judicial office. The court found that the judge's suspension from the practice of law for converting the funds of a client and filing a false trust account questionnaire, as well as testifying untruthfully before the commission, merited public censure. The court determined that it had jurisdiction over this prejudicial conduct because the acts were such as to bring the judicial office into disrepute. ***In re Rubi***, 148 Ariz. 167, 713 P.2d 1225 (1985).

A justice of the peace was enjoined by the supreme court from seeking election or appointment as a judge in Arizona for improperly influencing the police, failing to recuse himself, providing false testimony, and abusing alcohol. The judge resigned from office before the commission made a formal recommendation to discipline the judge. ***In re Haines***, JQ-86-0001 (March 18, 1986).

A justice of the peace was publicly censured by the supreme court for falsely certifying that nomination petitions were signed in his presence. ***In re Goodman***, JQ-86-0002 (April 8, 1986).

The commission recommended that a justice of the peace be removed from office for improperly involving himself in a recall election and for simultaneously serving as justice of the peace and a member of the town council. After the commission filed its recommendation with the supreme court and before the court could rule on the case, the judge lost reelection. Even so, the court decided that it had jurisdiction based on the *Weeks* case and publicly censured the judge for his conduct. ***In re Walker***, 153 Ariz. 307, 736 P.2d 790 (1987).

A justice of the peace was arrested for driving under the influence of alcohol. The supreme court censured the judge after concluding that the DUI arrest constituted conduct prejudicial to the administration. ***In re Biggins***, 153 Ariz. 439, 737 P.2d 1077 (1987).

The commission determined that a justice of the peace committed willful misconduct in office when he made sexually suggestive remarks to a female litigant who was applying for a protective order in his court. The judge hugged the young woman and asked her to have a drink with him. This occurred on two different occasions, one of which was tape-recorded by the woman. The supreme court censured the judge for willful misconduct that brought the judicial office into disrepute. The judge later resigned and agreed not to seek appointment or election to judicial office again when new allegations involving sexual harassment came to light. ***In re Ackel***, 155 Ariz. 34, 745 P.2d 92 (1987) and CV-88-0002-SA (January 26, 1988).

A justice of the peace voluntarily stipulated to a public censure without admitting guilt, for conduct relating to *ex parte* contacts, failure to perform duties, and improper judicial demeanor. ***In re Weisenburger***, JQ-88-0001 (January 20, 1988).

A justice of the peace voluntarily stipulated to a public censure for sentencing first-time DUI defendants who were not represented by counsel to ten days in jail contrary to law, and for not complying with statutory requirements relating to search warrants. ***In re Garcia***, JQ-88-0003 (October 14, 1988).

A superior court judge was arrested and convicted in Texas for the possession of marijuana, a possible felony if the judge had been arrested and tried in Arizona on the same charge. Before the trial, the commission recommended to the supreme court that the judge be suspended in office pending the resolution of the criminal proceedings in Texas. The supreme court, which decided

the case after the judge had been convicted and fined, held that the judge had committed a crime punishable as a felony under Arizona law and suspended the judge without salary for one year as a disciplinary sanction for conduct prejudicial to the administration of justice that brought the judicial office into disrepute. ***In re Marquardt***, 161 Ariz. 206, 778 P.2d 241 (1989). Two years after this decision, the judge was arrested and convicted in a separate case involving conspiracy to possess marijuana. He resigned from office and was sentenced to three years probation. He was also fined \$20,000 for false swearing in connection with his earlier testimony before the commission.

The supreme court censured a justice of the peace for permitting the clerks working under his direction and control to accept guilty pleas in DUI cases and for failing to require his staff to observe the standards of fidelity and diligence that applied to the judge. The court also censured the judge for allowing his staff to give the commission information that he should have known was false and improperly interfering with an ongoing criminal investigation involving his son. The court found that the judge's conduct brought the judiciary into disrepute, reflected poorly on the integrity of the judiciary, and created the appearance of impropriety. The judge failed to win renomination. ***In re Lockwood***, 167 Ariz. 9, 804 P. 2d 738 (1990).

The supreme court publicly censured a justice of the peace for conduct that would have justified removal or suspension if the judge had not lost reelection. The court found that the judge gave special treatment to a defendant arrested on an outstanding warrant from another county, used vulgar language in rebuking deputy sheriffs, ordered the arrest of a reserve police officer for refusing to follow an order in an incident arising out of the judge's personal affairs, demonstrated a desire to retaliate against officials outside of his jurisdiction by attempting to secure a temporary appointment in another county and suggesting that another judge lie to justify the appointment, made prejudicial comments in a judicial proceeding involving a person charged with sex-related crimes, and participated in *ex parte* proceedings. Collectively, these acts constituted abuse or corruption of the judicial office, destroyed public confidence in the integrity and impartiality of the judiciary, showed that the judge's personal relationships influenced his judicial conduct and judgment, and manifested a lack of dignity and courtesy to those with whom the judge dealt in his official capacity. ***In re Lehman***, 168 Ariz 174, 812 P. 2d 992 (1991).

The supreme court publicly censured a justice of the peace for conduct that manifested contempt for a person's right to appear before an impartial tribunal. The

judge lost reelection. While serving on the board of a community hospital, the judge presided over numerous cases involving the hospital and failed to disqualify himself even after the conflict was made known. The judge further used a bench-side telephone to obtain advice from "friends of the court" (including arresting officers) and resolve pending cases. Finally, the court found that the judge participated in *ex parte* proceedings with representatives of the state and disposed of cases in a manner that denied defendants their full right to be heard according to law. **In re Anderson**, 168 Ariz. 432, 814 P.2d 773 (1991).

A justice of the peace was censured and suspended for 90 days without pay for conduct that brought the judiciary into disrepute. The court found that the judge acted as an intermediary in business dealings between Mexico and casino owners in Nevada, induced a pro tem judge to sign an order in a case in which he had a conflict of interest, interfered in the investigation of a domestic complaint involving his court clerk, permitted *ex parte* contacts by criminal defense lawyers, gave the impression that a local attorney was favored by the court, failed to disclose his wife's employment on a financial statement, ignored court procedures and fixed traffic tickets, allowed his staff to receive gifts, handled a traffic case in which he was the witness, failed to disclose his relationship with attorneys who appeared before him, appointed an acquaintance as a "justice court police officer," and attempted to gain information about the commission's investigation from court staff, then lied about having done so. The supreme court also required the judge to participate in ethics education courses. **In re Gumaer**, 177 Ariz. 280, 867 P.2d 850 (1994).

The supreme court removed a justice of the peace for wilful misconduct in office and for behaving in a way that brought his judicial office into disrepute. The judge reinstated criminal charges against an election opponent after the charges had been dismissed by another judge. The judge also failed to recuse himself in two matters in which he was personally involved and had a conflict of interest, and engaged in *ex parte* communications in a third case. As aggravating factors, the court considered similar conduct for which the judge had been previously disciplined and the tone and substance of the judge's communications to the court accusing the judiciary of persecuting him. The court concluded that the judge lacked the judgment needed to carry out his duties competently and that removal was appropriate in order to give citizens confidence in the integrity of the judicial system. **In re Peck**, 177 Ariz. 283, 867 P.2d 853 (1994).

A justice of the peace was suspended for 90 days and required to attend ethics training classes for improperly influencing another judge. The judge intervened in traffic tickets on behalf of her grandson and a long-time friend. The supreme court concluded that the judge abused her office and that her conduct brought the judicial office into disrepute. The court held that the respondent's failure to acknowledge the wrongful nature of her conduct was an aggravating factor and that a non-lawyer justice of the peace is subject to the same ethical standards as a law-trained judge. The court also held that the penalty of censure is subsumed in the greater sanction of suspension. **In re Lorona**, 178 Ariz. 562, 875 P.2d 795, (1994).

A municipal court judge was suspended without pay for the remainder of her term for signing an order to release her boyfriend from jail after she had him arrested for domestic abuse. The supreme court held that the judge committed willful misconduct, regardless of her mental condition at the time she signed the order, because she intentionally used her office for a purpose other than the faithful discharge of her judicial duties. The court ruled that "grossly improper conduct" of this nature can destroy public confidence in the integrity and impartiality of the judiciary, and that substantial weight can be given to a judge's prior disciplinary record in determining the appropriate sanction. **In re Jett**, 180 Ariz. 103, 882 P.2d 414 (1994).

The supreme court suspended a superior court judge until the end of his term in office for using a racial slur about a defendant in his chambers and for habitually using vulgar language in court. Even though the judge had a long judicial career, there was substantial evidence that many citizens had lost faith in his judgment because of his use of racially inflammatory language and chronic use of profanity in official proceedings. The supreme court concluded that such behavior on the part of a judge had a debilitating effect on the administration of justice. **In re Goodfarb**, 179 Ariz. 400, 880 P.2d 620 (1994).

A justice of the peace stipulated to a thirty-day suspension without pay and consented to monitoring by the commission for misconduct in office. The judge, who also agreed not to seek judicial office again after his current term, brought the judiciary into disrepute when he habitually showed up late for court and failed to decide cases or rule on motions in a timely manner. In accepting the commission's recommendation, the supreme court endorsed the procedure used in this case because it corrected the specific problem with the judge's conduct and fostered public confidence in the judicial system's self-policing responsibility. **In re Braun**, 180 Ariz. 240, 883 P.2d 996 (1994).

A justice of the peace who lost reelection to the bench after formal proceedings were instituted against him, signed a stipulated agreement that he would not seek judicial office again. The supreme court approved the agreement which contained admissions that the judge had violated ethical standards by failing to decide cases promptly, by frequently being tardy or absent from the court, and by administering his court improperly. The judge's demeanor toward litigants, attorneys and staff also brought the judiciary into disrepute. ***In re Garcia***, JC-94-0005, 180 Ariz. 294, 884 P.2d 180 (1994).

The supreme court upheld the commission's recommendation to remove a municipal court judge from office for conduct that involved assault, soliciting prostitution, and habitual drinking. The court decided that the solicitation charge, for which the judge was later convicted, was a crime involving moral turpitude and as such constituted conduct prejudicial to the administration of justice that brought the judicial office into disrepute. Although the conduct occurred after hours, discipline is not reserved for judges who engage in improper behavior only while serving in an official capacity. ***In re Koch***, 181 Ariz. 352, 890 P.2d 1137 (1995).

A justice of the peace who was also a city magistrate entered into a stipulated agreement that enjoined her from seeking election or appointment as a judge in Arizona. The charges against the judge involved unethical resolution of civil and criminal traffic tickets, denying criminal defendants the right to counsel, delaying or failing to perform duties, and improper election practices. ***In re Nichols***, JC-96-0001 (March 21, 1996).

A city magistrate was enjoined from seeking election or appointment as a judge in Arizona in a stipulated resolution. The charges against the judge involved allegations that she failed to follow administrative directives, ignored state laws, exceeded her authority when issuing orders of protection and injunctions prohibiting harassment, engaged in improper *ex parte* communications. ***In re Harris***, JC-96-0002 (September 20, 1996).

A superior court judge was publicly censured for use of profanity in chambers and the common areas around his chambers and for drafting letters critical of an incumbent county attorney in an attempt to influence the outcome of the election. ***In re Lerma***, JC-97-0002 (April 14, 1997).

A superior court judge was suspended without pay for 90 days for failing to render decisions in 28 cases within 60 days from the date the matters were submitted or taken under advisement. The judge also signed 18 salary certificates in which he falsely certified that he had no causes under advisement for more than 60 days. ***In re Bradshaw***, JC-97-0001 (June 6, 1997).

The supreme court publicly censured a superior court judge who negotiated a contract between two private entities while actively serving on the bench. The judge's activities violated the canons barring a judge from practicing law, giving business advice to a person or entity other than one closely held by the judge or his family, or receiving compensation or reimbursement for expenses for extra-judicial activities. The judge's resignation prior to the decision limited the sanctions available to the court but did not relieve it from deciding the matter. The court found aggravation in the fact that the judge failed to request an advisory opinion from the Judicial Ethics Advisory Committee, was less than forthcoming in providing facts about his consulting contract, and attempted to shield those facts by claiming confidentiality. In mitigation, the court noted the judge's long and valuable service, his involvement in an activity that did not negatively affect his performance on the bench, and the fact that he did his consulting work on his own time. ***In re Fleischman***, 188 Ariz. 106, 933 P.2d 563 (1997).

A justice of the peace was suspended from office for 90 days, without pay, and required to take additional training, obtain a mentor judge, and be subject to periodic monitoring for a period of one year. The judge was disciplined, among other things, for repeatedly failing to conduct preliminary hearings, process criminal cases and render decisions in a timely manner, and for signing false salary certifications when matters were under advisement for more than 60 days. ***In re Manuz***, JC-98-0001 (April 10, 1998).

A municipal court judge was censured for repeatedly losing his temper and yelling at young defendants in the courtroom, for causing a defendant to incur a contempt charge, and for altering the official record in a case to remove an expletive. Additional training and mentoring were also imposed on the judge. ***In re Morales***, JC-98-0002 (September 11, 1998).

A municipal court judge was suspended for repeatedly making inappropriate comments to attorneys and defendants in the courtroom, for making offensive and suggestive comments to court staff, and for untimely rulings. The judge was suspended for two months, but given credit for one month of suspension previously imposed by the city. ***In re Pearlman***, JC-98-0003 (December 10, 1998).

A justice of the peace was censured for conduct that demeaned and brought his judicial office into disrepute because of his misdemeanor conviction for criminal damage and disorderly conduct for which he was sentenced to 24 months unsupervised probation, completion of a drug and alcohol screening and rehabilitation program, domestic violence counseling and restitution. ***In Re Guzman***, JC-99-0001 (January 25, 1999).

A part-time municipal judge who operated an automobile towing company was suspended for 90 days for refusing to surrender a vehicle promptly to its rightful owner after the state motor vehicle division revoked the title issued to the judge. Because of the judge's part-time status, the suspension resulted in a cumulative total of only six days off the bench. **In re Curfman**, JC-98-0004 (April 20, 1999).

A superior court judge was publicly censured for improper political activities, failure to correct or prevent inappropriate behavior of a pro tem superior court judge, active participation in another judge's political campaign, and improper use of official court stationery to threaten a police officer. **In re Montiel**, JC-97-0003 (May 26, 1999).

The supreme court suspended a superior court judge for 18 months (12 without pay) for repeatedly losing his temper and shouting in anger at attorneys, litigants and court staff, both inside and outside of the courtroom. The judge engaged in *ex parte* communications and made inappropriate comments to female attorneys. The judge also tampered with an official court record for the purpose of concealing a statement he made in chambers that tended to show bias against a defendant whose case was before him. **In re Flournoy**, 195 Ariz. 441, 990 P.2d 642 (1999).

A municipal court judge stipulated to a public censure for failing to afford a defendant the right to be heard, initiating improper *ex parte* communications concerning a matter on appeal, and then failing to disqualify himself from hearing a subsequent motion for reconsideration on remand. **In re Ventre**, JC-00-0001 (January 2000).

A superior court judge in Tucson was convicted in federal court for filing false tax returns and for structuring currency transactions in violation of federal law. The judge resigned from office in January 1997, just before the commission filed a recommendation with the state supreme court to remove the judge. The commission found that the judge's gambling became so excessive that an otherwise legal activity turned into an uncontrollable and destructive habit. Following a lengthy and unsuccessful appeal of the judge's conviction in the federal court, the supreme court issued an order in February 2000 dismissing the matter as moot because the judge resigned from the bench. **In re Scholl**, JC-96-0004 (February 18, 2000).

The supreme court removed a justice of the peace for habitual tardiness, making off-color remarks to court employees, circulating racist, sexist, and obscene materials, engaging in improper *ex parte* communications, failing to recuse himself and otherwise creating an ap-

pearance of bias, using his judicial position inappropriately, failing to respect the rights of litigants before him, and failing to adequately perform his judicial responsibilities. The court, while giving serious consideration to the commission's recommendation that the judge be permitted to resign with a disability based on the judge's belief that he suffered from narcolepsy, found that removal better served the goals of maintaining high judicial standards, protecting the public and assuring that such conduct would not be tolerated. **In re Carpenter**, JC-00-0002 (January 18, 2001).

A superior court judge stipulated to a censure and was ordered to attend workplace gender-sensitivity training for making sexually inappropriate comments to an employee, for keeping alcohol in chambers, and for offering drinks to employees after court hours. The judge also acknowledged that two other employees had complained of what were perceived as sexually inappropriate comments. The stipulation included a provision to reopen the case if the training were not completed, if there was evidence of retaliation by the judge, or if the conduct in question was repeated. **In re Irwin**, JC-00-0003 (November 29, 2000).

A justice of the peace resigned from office after the commission filed two recommendations for his removal with the supreme court. The first recommendation for removal was filed against the judge for making biased and offensive remarks to litigants, displaying handcuffs and threatening defendants with contempt for failing to mediate in good faith, improperly dismissing cases with prejudice, and failing to maintain proper decorum in the courtroom. The judge also had been repeatedly intolerant, impatient, sarcastic and patronizing toward defendants in a series of forcible detainer cases and mistreated litigants and attorneys in other cases. A second recommendation for removal was filed against the justice of the peace for making offensive racial comments while serving as a judge. Since the judge had already resigned, the supreme court issued an order enjoining him from seeking or holding judicial office in Arizona. **In re Dobronski**, JC-01-0001 and JC-01-0002 (February 22, 2002).

A justice of the peace stipulated to a public censure for being absent or late while litigants were waiting for scheduled proceedings, performing marriages for compensation during court hours, accepting Mexican drivers licenses as a defense to driving without a license for individuals residing in Arizona, and for signing an injunction prohibiting a former political opponent from going near a business he owns. **In re Villegas**, JC-02-0002 (November 18, 2002).

A justice of the peace was charged with 29 allegations of incompetence and five allegations of improper decorum in carrying out her judicial duties. Prior to the filing of formal charges, the judge had been informally reprimanded and directed to attend additional training. The judge admitted to 12 of the allegations, consented to a two-month suspension, and agreed to complete a mentoring program. The supreme court entered an order suspending the judge for 60 days, without pay, and requiring her to participate in a 90-day mentoring program under the full-time supervision of an experienced judge. The court also required the judge to apply for a certificate of compliance indicating that she had remedied the deficiencies underlying the admitted ethical violations. After receiving the final report from her mentor judge, but prior to the compliance hearing before the commission, the judge resigned from her position as justice of the peace. ***In re Watkins***, JC-03-0001 (December 16, 2003).

A male superior court judge was charged with having an unprofessional or inappropriate relationship with a female deputy county attorney who regularly appeared before him as counsel of record. The judge was also charged with assaulting his wife. After a hearing, the hearing panel issued findings of fact, conclusions of law, and recommendations, which included a finding that the judge had committed the misconduct alleged and that he had been untruthful in his initial responses to the allegations. The hearing panel also recommended that the judge be removed from judicial office. On the day his response to the supreme court was due, the judge resigned. The supreme court ordered the judge to pay a portion of the costs associated with the proceedings. ***In re Nelson***, JC-03-0002 (April 22, 2004).

A municipal court judge stipulated to public censure for issuing an order that appeared to be a response to the city attorney's legal opinion that the judge's employment contract was invalid; filing a bar complaint against the city attorney that appeared to be retaliatory; incorrectly documenting that a defendant and the city attorney had entered into a plea bargain and that the defendant was satisfied with her attorney's services; going to the defendant's place of employment to discuss documentation of her guilty plea; and using inappropriate and vulgar language in the courtroom and on a court pleading. ***In re Thomson***, JC-04-0001 (April 19, 2004).

A municipal court judge stipulated to public censure for improperly ordering the release of his daughter's friend shortly after the friend had been arrested. Because the judge resigned for medical reasons, the supreme court declined further review of the case. ***In re Forgach***, JC-04-0002 (April 22, 2004).

A justice of the peace stipulated to suspension, training and mentoring for incompetence, misconduct, and improper judicial demeanor. A pattern of incidents established that the judge lacked the requisite ability, knowledge, or judgment to consistently and capably discharge the duties of his office. ***In re Romney***, JC-04-0003 (June 29, 2004).

A justice of the peace stipulated to a 30-day suspension and ongoing mentoring for ruling in several cases without providing adequate notice to the parties, granting a summary judgment on his own motion without waiting for one of the parties to request this action, issuing inconsistent rulings in a case involving a claim and counterclaim, and personally loaning money to a party to post a bond. ***In re Johnson***, JC-04-0004 (August 16, 2004).

A municipal court judge stipulated to public censure, training, and mentoring for attempting to begin proceedings before a defendant's attorney was present, for asking the city attorney for legal advice during a trial in which the attorney was not a party, for being rude and demeaning towards a spectator and an attorney, and for speaking to a witness in a case outside the presence of the parties. ***In re Hatch***, JC-04-0005 (November 26, 2004).

A justice of the peace stipulated to public censure for repeatedly arriving late for court and keeping litigants, attorneys, and staff members waiting. ***In re McVay***, JC-05-0002 (March 22, 2005).

A judge sitting as both a municipal court judge and as a justice of the peace stipulated to public censure and mentoring for failing to follow mandatory sentencing requirements in DUI and suspended license cases, for shortening mandatory jail sentences, and for appearing to show favoritism when he dismissed several charges and waived fines for a county official's relative. ***In re Overson***, JC-05-0003 (September 8, 2005).